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SENATE BILL 274

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2007

INTRODUCED BY

Phil A. Griego

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO THE STATE POLICE; CREATING THE STATE POLICE
COMMISSION; REPLACING THE PUBLIC SAFETY ADVISORY COMMISSION;
PROVIDING FOR OVERSIGHT OF STATE POLICE OPERATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-19-11 NMSA 1978 (being Laws 1987,
Chapter 254, Section 12, as amended) is amended to read:

"9-19-11. [~~ADVISORY~~] STATE POLICE COMMISSION.--

A. [~~There is created~~] The "~~[public safety advisory]~~
state police commission" is created. The commission is
composed of seven citizens of New Mexico appointed by the
governor with the consent of the senate for staggered terms of
three years ending on January 1; provided that in making the
initial appointments, three members shall be appointed for
terms of three years each, two members shall be appointed for

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1 terms of two years each and two members shall be appointed for
2 terms of one year each. Thereafter, all appointments shall be
3 made for terms of three years.

4 B. The commission shall:

5 (1) oversee the operations of the state police
6 division and advise or consent as provided by law;

7 (2) advise the secretary on policy matters
8 respecting [the] other activities of the department; and
9 [shall]

10 (3) conduct disciplinary proceedings for any
11 officer of the [department] New Mexico state police division as
12 required by Section 29-2-11 NMSA 1978. [The]

13 C. Disciplinary hearings held by the commission
14 shall be a matter of record and shall be conducted in the
15 manner provided for in Section 29-2-11 NMSA 1978. The
16 commission shall serve its findings and conclusions on the
17 secretary for execution."

18 Section 2. Section 28-14-3 NMSA 1978 (being Laws 1949,
19 Chapter 170, Section 3, as amended) is amended to read:

20 "28-14-3. SELECTION BY VETERANS' SERVICES DEPARTMENT.--
21 Children who are to receive the educational benefits provided
22 under Section 28-14-1 NMSA 1978 shall be selected by the
23 veterans' services department on the basis of need and merit.
24 Nominations shall be made by:

25 A. the department, for children of deceased

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1 veterans;

2 B. the adjutant general, for children of deceased
3 national guard of New Mexico members; and

4 C. the [~~New Mexico~~] state police [~~board~~]
5 commission, for children of deceased New Mexico state police
6 members."

7 Section 3. Section 29-2-1.1 NMSA 1978 (being Laws 1987,
8 Chapter 254, Section 18, as amended) is amended to read:

9 "29-2-1.1. DEFINITIONS.--As used in Chapter 29 NMSA 1978,
10 except Chapter 29, Article 9 NMSA 1978:

11 A. "chief" or "chief of the state police" means the
12 director of the New Mexico state police division of the
13 department;

14 B. "commission" means the [~~public safety advisory~~]
15 state police commission;

16 C. "department" means the department of public
17 safety;

18 D. "member of the New Mexico state police" means a
19 commissioned officer of the New Mexico state police;

20 E. "New Mexico law enforcement academy" or
21 "academy" means a bureau of the training and recruiting
22 division of the department of public safety;

23 F. "New Mexico state police" means the New Mexico
24 state police division of the department; and

25 [~~G. "New Mexico state police board" or "board"~~

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1 ~~means the secretary of public safety; and~~

2 H.] G. "secretary" means the secretary of public
3 safety."

4 Section 4. Section 29-2-3 NMSA 1978 (being Laws 1941,
5 Chapter 147, Section 3, as amended) is amended to read:

6 "29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--The New
7 Mexico state police shall consist of a chief and such
8 patrolmen, sergeants, lieutenants and captains as the [~~New~~
9 ~~Mexico state police board may~~] secretary and the commission
10 deem advisable within the limits of the funds appropriated for
11 the New Mexico state police; provided [~~however~~] that the number
12 of captains, lieutenants and sergeants shall not exceed twenty-
13 five percent of the total number of the police, exclusive of
14 the chief, but this requirement shall not be interpreted so as
15 to require the demotion of any member of the previous state
16 police division of the criminal justice department."

17 Section 5. Section 29-2-4 NMSA 1978 (being Laws 1941,
18 Chapter 147, Section 4, as amended) is amended to read:

19 "29-2-4. APPOINTMENTS--REMOVAL.--The chief of the New
20 Mexico state police shall be appointed by the [~~New Mexico state~~
21 ~~police board~~] secretary, with the advice and consent of the
22 commission. All patrolmen, other officers and all civilian
23 employees shall be appointed by the chief."

24 Section 6. Section 29-2-4.1 NMSA 1978 (being Laws 1979,
25 Chapter 202, Section 16) is amended to read:

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1 "29-2-4.1. RULES ~~[AND REGULATIONS]~~.--The ~~[New Mexico~~
2 ~~state police board]~~ secretary, with advice from the commission,
3 shall promulgate rules ~~[and regulations]~~ governing employment
4 and operating practices and related matters for employees of
5 the New Mexico state police."

6 Section 7. Section 29-2-6 NMSA 1978 (being Laws 1941,
7 Chapter 147, Section 6, as amended) is amended to read:

8 "29-2-6. QUALIFICATIONS OF MEMBERS.--

9 A. Members of the New Mexico state police, except
10 the chief, shall:

11 (1) at the time of their appointment, be
12 citizens of the United States;

13 (2) at the time of their appointment, have
14 reached twenty-one years of age;

15 (3) at the time of their appointment:

16 (a) have completed not less than sixty
17 hours of college credit; or

18 (b) have completed not less than thirty
19 hours of college credit and, no later than two years following
20 appointment, have completed not less than an additional thirty
21 hours of college credit;

22 (4) be of good moral character and not have
23 been convicted of a felony or infamous crime in the courts of
24 this state or other state or any country or in the federal
25 courts; and

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1 (5) pass a physical examination the New Mexico
2 state police may require.

3 B. A person shall not be commissioned a member of
4 the New Mexico state police who is related by blood or marriage
5 within the fourth degree to a member of the [~~public safety~~
6 ~~advisory~~] commission or the secretary."

7 Section 8. Section 29-2-9 NMSA 1978 (being Laws 1941,
8 Chapter 147, Section 9, as amended) is amended to read:

9 "29-2-9. PROBATIONARY PERIOD--LENGTH--PERMANENT
10 COMMISSION--SALARY.--

11 A. All new appointments as members of the New
12 Mexico state police shall be for a probationary period of two
13 years. During [~~such~~] the probationary period, [~~such~~] the new
14 members may be removed or suspended at the discretion of the
15 chief [~~of the New Mexico state police~~]. At the end of two
16 years of satisfactory service and upon recommendation of the
17 chief and with concurrence of the [~~New Mexico state police~~
18 ~~board~~] secretary, the appointee may receive a permanent
19 commission as a member of the New Mexico state police.
20 However, the probationary period may be extended beyond a two-
21 year period upon the recommendation of the chief with the
22 concurrence of the [~~board~~] secretary and the commission.

23 B. The salaries of all members of the New Mexico
24 state police, probationary and permanent, and that of the chief
25 shall be fixed by the [~~board~~] secretary."

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1 Section 9. Section 29-2-10 NMSA 1978 (being Laws 1941,
2 Chapter 147, Section 10, as amended) is amended to read:

3 "29-2-10. PROMOTIONS.--All promotions in the New Mexico
4 state police to the rank of sergeant shall be made after
5 written examinations; provided, however, that on [~~such~~] the
6 examination for the rank of sergeant, the record of the [~~party~~]
7 person seeking promotion as a member of the New Mexico state
8 police and [~~his~~] the person's length of service shall be given
9 a weight of forty percent in [~~such~~] the examination. All
10 promotions above the rank of sergeant shall be made by the
11 chief after concurrence and approval by the [~~New Mexico state~~
12 ~~police board~~] secretary. The ranks of sergeant, lieutenant and
13 captain shall be permanent unless established as an exempt rank
14 by the chief with the concurrence of the [~~board~~] commission.
15 All promotions above the rank of captain are by executive
16 appointment of the chief with concurrence of the [~~board~~]
17 secretary, and [~~such~~] those persons shall serve at the pleasure
18 of the chief with the concurrence of the [~~board~~] secretary."

19 Section 10. Section 29-2-12 NMSA 1978 (being Laws 1941,
20 Chapter 147, Section 12, as amended) is amended to read:

21 "29-2-12. OATH.--All members of the New Mexico state
22 police and the [~~New Mexico state police board~~] commission shall
23 take the oath of office required of all state officials."

24 Section 11. Section 29-2-14 NMSA 1978 (being Laws 1971,
25 Chapter 87, Section 1, as amended) is amended to read:

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1 "29-2-14. UNAUTHORIZED WEARING OF UNIFORM OR BADGE--
2 UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

3 A. Unauthorized wearing of uniform or badge
4 consists of the wearing or requiring the wearing, without
5 authorization by the [~~New Mexico state police board~~] chief, of
6 a uniform or badge or both whose material, color or design, or
7 any combination of them, is such that the wearer appears to be
8 a member of the New Mexico state police.

9 B. Unauthorized marking of motor vehicle consists
10 of the marking, using, possessing or owning or requiring the
11 marking or using, without authorization by the [~~board~~] chief,
12 of a motor vehicle whose insignia, color or equipment, or any
13 combination of them, is such that the motor vehicle appears to
14 be a New Mexico state police motor vehicle.

15 C. Whoever commits unauthorized wearing of uniform
16 or badge or unauthorized marking of motor vehicle is guilty of
17 a petty misdemeanor and shall be punished as provided in
18 Section 31-19-1 NMSA 1978."

19 Section 12. Section 29-2-16 NMSA 1978 (being Laws 1941,
20 Chapter 147, Section 15, as amended) is amended to read:

21 "29-2-16. STATE POLICE SCHOOL--COMPENSATION.--

22 A. Before entering upon [~~his~~] the appointee's
23 duties, every appointee to the New Mexico state police shall be
24 required to attend for a period of at least ninety days a
25 school of instruction approved by the [~~New Mexico state police~~

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1 ~~board]~~ secretary, with the advice of the commission. A uniform
2 course of instruction shall be given all trainees governing the
3 operation, maintenance and temporary roadside repair of motor
4 vehicles, the laws of the state which the appointee may be
5 called on to enforce and other instruction as the [~~New Mexico~~
6 ~~state police board]~~ secretary, with the advice of the
7 commission, may require. Attendance at the school or other
8 course of instruction as may be prescribed renders the person
9 attending subject to the control of the New Mexico state police
10 during attendance.

11 B. The [~~board]~~ secretary may, within the budgetary
12 means of the New Mexico state police, allow subsistence and
13 compensation for trainees attending the school of instruction
14 at the New Mexico state police headquarters or elsewhere. The
15 compensation allowed for each trainee, excluding room and board
16 for a thirty-day period, shall be in the amount set by the
17 legislature in the general [~~appropriations]~~ appropriation act."

18 Section 13. Section 29-2-19 NMSA 1978 (being Laws 1977,
19 Chapter 257, Section 34, as amended) is amended to read:

20 "29-2-19. CHIEF--QUALIFICATIONS--REMOVAL.--

21 A. The chief is the executive officer of the New
22 Mexico state police and [~~shall be]~~ is subject to the control,
23 supervision and direction of the [~~New Mexico state police~~
24 ~~board. He shall]~~ secretary, with advice from the commission.
25 The appointee, at the time of [~~his]~~ appointment [~~by the board]~~

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1 as chief, shall have been a member of the New Mexico state
2 police holding a permanent commission for ten continuous years
3 immediately prior to [~~his~~] the appointment and shall have
4 served not less than three years in a supervisory capacity [~~and~~
5 ~~said~~]. Appointment shall be made with the consent of the
6 senate.

7 B. The chief shall serve at the pleasure of the
8 [~~New Mexico state police board~~] secretary.

9 C. The seniority and retirement rating of the chief
10 shall be continuous as for any other member.

11 D. The chief shall maintain [~~his~~] an office in
12 Santa Fe in such quarters as are provided by the New Mexico
13 state police for that purpose."

14 Section 14. Section 29-2-20 NMSA 1978 (being Laws 1941,
15 Chapter 147, Section 19, as amended) is amended to read:

16 "29-2-20. DISTRICTS.--The [~~New Mexico state police~~]
17 chief, subject to the control of the [~~New Mexico state police~~
18 ~~board~~] secretary, with the advice of the commission, may divide
19 the state into districts and may designate home stations for
20 the members of the New Mexico state police."

21 Section 15. Section 29-2-24 NMSA 1978 (being Laws 1941,
22 Chapter 147, Section 25, as amended) is amended to read:

23 "29-2-24. WAIVER.--The provisions of Sections 29-2-6
24 through 29-2-8 NMSA 1978 may be waived by the [~~unanimous vote~~
25 ~~of all members of the New Mexico state police board~~] secretary,

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1 with the concurrence of the commission, with regard to
2 plainclothes [~~men~~] or special investigators and other employees
3 not regularly uniformed."

4 Section 16. Section 29-2-25 NMSA 1978 (being Laws 1947,
5 Chapter 38, Section 1, as amended) is amended to read:

6 "29-2-25. ACCIDENT REPORTS.--When any member of the New
7 Mexico state police [~~shall investigate~~] investigates a motor
8 vehicle accident, [~~he~~] the member shall make a written report
9 of [~~his~~] the findings on appropriate forms furnished by the New
10 Mexico state police, the original of which report [~~and of all~~
11 ~~reports of motor vehicle accidents heretofore made~~] shall be
12 filed in the office of the New Mexico state police and shall be
13 furnished to any person upon written application accompanied by
14 a fee as set by the [~~New Mexico state police board~~] secretary
15 for the [~~photostat~~] photocopy of each surface of all documents
16 comprising a report."

17 Section 17. TEMPORARY PROVISION--MEMBERS OF PUBLIC SAFETY
18 ADVISORY COMMISSION TO BE MEMBERS OF STATE POLICE COMMISSION--
19 TRANSFERS.--

20 A. The members of the public safety advisory
21 commission that have been confirmed by the senate on the
22 effective date of this act shall continue to be members of the
23 state police commission for the remainder of the terms for
24 which they were appointed.

25 B. Files, records or other property belonging to

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1 the public safety advisory commission shall be transferred to
2 the state police commission.

3 C. Contractual obligations of the public safety
4 advisory commission shall be binding on the state police
5 commission.

6 D. Statutory references to the public safety
7 advisory commission shall be deemed to be references to the
8 state police commission.

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